

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1387 Ad Valorem Tax Assessments

SPONSOR(S): Finance & Tax Council; Schultz

TIED BILLS: IDEN./SIM. BILLS:

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Finance & Tax Council	11 Y, 0 N, As CS	Diez-Arguelles	Langston
2)				
3)				
4)				
5)				

SUMMARY ANALYSIS

This bill makes a number of changes to the statutory provisions dealing with the operation of Value Adjustment Boards (VABs). The bill also makes one change to the Department of Revenue's (DOR) oversight of each county's assessment rolls. The bill:

- Expands the information that must be included in a petition to the VAB to include the petitioner's estimate of the property's market value and a declaration of whether the petitioner is an agent having written consent to represent the owner.
- Requires that persons representing property owners before the VAB for compensation must be licensed brokers, appraisers or attorneys.
- Provides that the decision by the VAB to accept late filed petitions must not extend the deadlines for filing a circuit court challenge.
- Changes the filing fee structure for petitions that cover multiple parcels.
- Allows the VAB clerk to grant more than one rescheduling at the request of the petitioner, so long as the rescheduling does not extend the scheduled end of the VAB proceedings.
- Provides that a written decision by the VAB is not required when the petitioner or agent fails to appear at the hearing.
- Reduces the amount of information the VAB must publish in a newspaper detailing the tax impact of the VAB's decisions, and requires the DOR to prepare a report of the information currently required.
- Requires that the Department of Revenue's in-depth review of a county's assessment rolls include the actions of the VAB.
- Make other minor changes.

The bill authorizes the Department of Revenue to adopt emergency rules to implement the provisions of the bill.

The provisions of the bill will cause an insignificant reduction in local government revenues and an insignificant increase in state government expenditures.

The bill has an effective date of July 1, 2010.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Under current law, property owners that object to the assessment placed on their property by the property appraiser may request an informal conference with the property appraiser<sup>1</sup> may file a petition with the Value Adjustment Board in the county where the property is located,<sup>2</sup> or may file an action in circuit court<sup>3</sup> to contest the assessment.

This bill makes a number of changes to the statutory provisions dealing with the operation of the Value Adjustment Boards (VABs). The bill also makes one change to the Department of Revenue's oversight of each county's assessment rolls.

#### Informal Conference

Any taxpayer who objects to the assessment placed on his or her property is entitled to an informal conference with the property appraiser.<sup>4</sup> Participation in an informal conference is not a prerequisite to any administrative or judicial review available to the taxpayer. The bill clarifies the statutory language by explicitly stating that "participation in an informal conference is not a prerequisite to administrative or judicial review of property assessments."

#### Contents of Petition

A petition to a VAB must include the parcel number of the property and an estimate of the time needed by the petitioner to present and argue the petition before the board, and must be sworn to by the petitioner.<sup>5</sup> The bill adds two items that must be included in the petition: (1) if the petition challenges the valuation of the property, an estimate of the market value of the property on January 1 of the current year, and (2) a declaration that the petitioner is the owner of the property or a person having the written consent of the owner to represent the owner.

#### Attorneys and Agents

Property owners may be represented before the VAB by attorneys or agents and the attorney or agent may file the petition.<sup>6</sup> The bill requires that persons filing a petition or representing the property owner

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<sup>1</sup> S. 194.011(2), F.S.

<sup>2</sup> S. 194.011(3), F.S.

<sup>3</sup> S. 194.171, F.S.

<sup>4</sup> S. 194.011(2), F.S.

<sup>5</sup> S. 194.011(3), F.S.

<sup>6</sup> S. 194.034 and s. 194.011(3)(g), F.S.

for compensation must be licensed under Chapter 475, F.S. or be a member of the Florida Bar in good standing.

### Late-filed Petitions

Filing deadlines for petitions to the VAB vary depending on the subject of the petition. If the petition deals with a valuation issue, it must be filed on or before the 25<sup>th</sup> day following the mailing of the Notice of Proposed Property Taxes. If the petition deals with the denial of an exemption or a classification, it must be filed on or before the 30<sup>th</sup> day following the mailing of the notice denying the application for exemption or classification.<sup>7</sup> Current law is silent regarding late-filed petitions. The bill provides that if the VAB accepts late-filed petitions, the VAB may not extend the deadlines for the filing of a circuit court action under s. 194.171(2), F.S.

### Filing Fees

The VAB may require a petition filing fee of up to \$15 for each separate parcel of property. However, a condominium association; a cooperative association; a homeowners' association; and the owner of contiguous undeveloped parcels may file a single petition covering multiple parcels, if certain conditions are met.<sup>8</sup> The filing fee for these joint petitions must be calculated as the cost of the special magistrate for the time involved in hearing the joint petition, not to exceed \$5 per parcel. The bill deletes the calculation for determining the joint petition fee and replaces it with fee of \$15 for the first parcel and \$5 for each additional parcel.

### Board Meetings

Current law states that the VAB may not meet unless counsel to the VAB is present.<sup>9</sup> The bill makes an exception to this requirement for the VAB meeting to appoint or hire counsel.

### Rescheduling Appearances

Petitioners to the VAB have the right to reschedule the hearing a single time by submitting to the clerk of the VAB a written request no less than 5 days before the date of the originally scheduled hearing.<sup>10</sup> The bill provides that, at the discretion of the VAB clerk, additional rescheduling may be made, but they may not extend the scheduled end of the VAB's proceedings.

### Wait Time

Current law provides that if a petition is not heard within 4 hours of the scheduled time, the petitioner may report to the chairperson of the meeting that he or she intends to leave. If he or she is not heard immediately, the petitioner's administrative remedies will be exhausted, and he or she may seek further relief as he or she deems appropriate.<sup>11</sup> The bill deletes this provision from the statutes.

### Written Decisions

The VAB is required to render a written decision in each case, except when a petition is withdrawn by the petitioner or is acknowledged as correct by the property appraiser.<sup>12</sup> The bill removes the phrase "is acknowledged as correct by the property appraiser" and provides that a written decision is not needed when the petitioner or agent fails to appear.

### Training

Under current law, the Department of Revenue is required to conduct training for VAB special magistrates at least once each state fiscal year in at least five locations throughout the state.<sup>13</sup> The bill provides the department may provide the training online, as an alternative to this requirement. This statutory change codifies the department's current practice.

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<sup>7</sup> S. 194.011(d), F.S.

<sup>8</sup> S. 194.013, F.S.

<sup>9</sup> S.194.015, F.S.

<sup>10</sup> S. 194.032, F.S.

<sup>11</sup> Id.

<sup>12</sup> S. 194.034, F.S.

<sup>13</sup> S. 194.035, F.S.

### Notice of VAB Tax Impact

Once the VAB hearings are completed, the VAB clerk is required to publish a notice of the result of the VAB's actions.<sup>14</sup> The notice must be published in a newspaper of general interest and must meet specified size requirements. The notice must include information displayed in columnar form for the following types of property: Improved residential; improved commercial; improved industrial, utility, and other property not attributable to other listed classes; agricultural property; high water recharge property; historic property; tangible personal property; and vacant land and nonagricultural acreage. For each type of property, the columns must show: the number of parcels for which exemptions were granted; the number of parcels for which exemption petitions were filed; the number of parcels for which the VAB reduced the assessment made by the property appraiser; the number of parcels for which petitions were not considered because they were withdrawn; the number of parcels for which petitions were filed requesting a change in assessed value, including changes in assessment classifications; the net change in taxable value from the appraiser's initial roll resulting from the VAB's decisions; the net shift in taxes to parcels not granted relief by the VAB.

The bill removes the requirement that the notice contain information on each of the specified classes of property, and continues the requirement for the notice to contain the required information, in columnar form, for all actions of the VAB. Also, the number of parcels where the petitioner or agent failed to appear must be included with the number of parcels that were withdrawn.

Finally, the bill requires the VAB clerk to prepare and submit to the Department of Revenue the information, by class of property, currently required to be published in a newspaper. The department must prepare a report containing the information provided by the VAB clerk and a statewide compilation of the information. The department's report must be posted in the department's website.

### Review of Assessment Rolls

The Department of Revenue conducts in-depth reviews of each county's assessment rolls once every two years.<sup>15</sup> Currently, the reviews may include proceedings of the VAB. The bill provides that the reviews must include VAB proceedings.

## B. SECTION DIRECTORY:

Section 1 amends s. 194.011, F.S.

Section 2 amends s. 194.013, F.S.

Section 3 amends s. 194.015, F.S.

Section 4 amends s. 194.032, F.S.

Section 5 amends s. 194.034, F.S.

Section 6 amends s. 194.035, F.S.

Section 7 amends s. 194.037, F.S.

Section 8 amends s. 195.096, F.S.

Section 9 amends s. 192.0105, F.S., to update a cross-reference.

Section 10 authorizes the Department of revenue to adopt emergency rules.

Section 11 provides an effective date of July 1, 2010

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

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<sup>14</sup> S. 194.037, F.S.

<sup>15</sup> S. 195.096, F.S.

The Department of Revenue will incur insignificant costs to promulgate rules and forms.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

The loss of revenues due to the change in filing fees is expected to be insignificant.

2. Expenditures:

The VABs should experience some savings from the reduction in the amount of information that must be published in a newspaper and from the change in the requirement for written decisions.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Persons who currently represent property owners before the VAB who are not licensed brokers, appraisers or attorneys will no longer be able to do so.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because this bill reduces the authority that counties have to raise revenues (the change to filing fee structure); however, an exemption applies because the reduction in revenues is expected to be insignificant.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The Department of Revenue is authorized to adopt emergency rules.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

On April 9, 2010, the Finance and Tax Council adopted a Proposed Committee Substitute (PCS) and two amendments to the PCS. The PCS, as amended, made a number of changes to the bill. This analysis reflects all the changes made to the original bill.